

~~III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)~~

~~This proposed rule continues the provisions of the September 1, 2016 emergency rule which amended the provisions governing Pediatric Day Health Care (PDHC) services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for PDHC services by approximately \$572,764 for FY 16-17, \$786,597 for FY 17-18 and \$810,194 for FY 18-19.~~

~~IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)~~

~~It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, the change in the reimbursement methodology may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.~~

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NOTICE OF INTENT

**Department of Health
Office of Public Health**

Ground Water and Revised Total Coliform Regulations
(LAC 51:XII.101, 311, 319, 325, 343, 901,
903, 905, 907, 911, 912, 913 and 1201)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). The amendments to Part XII are necessary in order that LDH-OPH can maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

The proposed rule herein is intended to amend and update LDH-OPH's existing rule for public water systems. The Safe Drinking Water Act Amendments of 1996 (Public Law 104-182/ August 6, 1996) required the USEPA to issue updated rules relative to the regulation of disinfection of ground water supplies. Subsequently, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on November 8, 2006 (71 FR 65650 - 65659) by promulgating a rule entitled "National Primary Drinking Water Regulations: Ground Water Rule; Final Rule", as well as USEPA technical corrections to this federal rule published in the Federal Register dated November 21, 2006 (Volume 71, Number 224, page 67427). The November 8, 2006 federal ground water regulation became effective for Louisiana public water systems at the federal level on December 1, 2009. Furthermore, in accordance with the 1996 Safe Drinking Water Act (SDWA) Amendments, which

require the USEPA to review and revise each national primary drinking water regulation no less often than every six years, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on February 13, 2013 (78 FR 10346-10363) by promulgating a rule entitled "National Primary Drinking Water Regulations: Revisions to the Total Coliform Rule; Final Rule", as well as certain USEPA minor corrections to this federal rule published in the Federal Register dated February 26, 2014 (79 FR 10668-10670). The February 13, 2013 federal revised total coliform regulations became fully effective for Louisiana public water systems at the federal level on April 1, 2016. It is the intent of this rulemaking to amend the current state regulations by adopting these newly amended federal regulations by reference into Part XII.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII) is proposed to be amended as follows.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XII. Water Supplies

Chapter 1. General

§101. Definitions

[formerly paragraph 12:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

* * *

Level 1 Assessment—an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate; existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

* * *

Level 2 Assessment—an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage);

source and treatment considerations that bear on distributed water quality, where appropriate; existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must comply with any expedited actions or additional actions required by the State in the case of an *E. coli* MCL violation.

* * *

National Primary Drinking Water Regulations—

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f et seq., and as published in the July 1, 2015 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

i. 40 CFR §141.35 Reporting for unregulated contaminant monitoring results;

ii. 40 CFR §141.40 Monitoring requirements for unregulated contaminants;

iii. Subpart H—Filtration and Disinfection (40 CFR §§141.70-141.76);

iv. Subpart P—Enhanced Filtration and Disinfection—Systems Serving 10,000 or More People (40 CFR §§141.170-141.175);

v. Subpart T—Enhanced Filtration and Disinfection—Systems Serving Fewer Than 10,000 People (40 CFR §§141.500—571); and

vi. Subpart X—Aircraft Drinking Water Rule (40 CFR §§141.800—810).

b. when "Subpart H", "Subpart P", or "Subpart T" is used within the actual text of the drinking water regulations cited in Subparagraph "a." of this Paragraph (definition), "LAC 51:XII.Chapter 11" shall be substituted therein.

* * *

Sanitary Survey—an onsite review of the water source, facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

* * *

Significant Deficiency—a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the state health officer determines to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5.A. (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:1194 (June 2004), LR 30:2326 (October 2004), LR 35:484 (March 2009), LR 35:1240 (July 2009), LR 38:2375 (September 2012), LR 38:2793 (November 2012), LR 38:3232 (December 2012), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 3. Water Quality Standards

§311. Records

[formerly paragraph 12:003-2]

A. Complete daily records of the operation of a public water system, including reports of laboratory control tests and any chemical test results required for compliance determination, shall be kept and retained as prescribed in the national primary drinking water regulations on forms approved by the state health officer. When specifically requested by the state health officer or required by other requirements of this Part, copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month. Additionally, all such records shall be signed by a certified operator in charge of the public water system and made available for review during inspections/sanitary surveys performed by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:1195 (June 2004), LR 42:408 (March 2016), amended by the Department of Health, Office of Public Health, LR 43:

§319. Significant Deficiencies Identified in Sanitary Surveys

A. The state health officer shall conduct a sanitary survey for all public water systems no less frequently than once every three years for community systems and no less frequently than once every five years for non-community systems.

1. The sanitary survey shall address the following eight specific elements:

- a. source;
- b. treatment;
- c. distribution system;
- d. finished water storage;
- e. pumps, pump facilities, and controls;
- f. monitoring, reporting, and data verification;
- g. system management and operation; and
- h. operator compliance with state requirements.

B. Public water systems shall respond in writing to confirm the correction of significant deficiencies identified in a sanitary survey report no later than 90 days after receipt of the report by the public water system. The public water system's written response shall specify the completed corrective action taken for each significant deficiency or specify a corrective action plan and schedule to address each significant deficiency noted in the sanitary survey report.

C. Upon receipt of the public water system's written response to significant deficiencies identified in a sanitary survey report, the state health officer shall review and approve the public water system's written schedule or shall notify the public water system in writing if the corrective action schedule is unacceptable and will make recommendations to amend the schedule so that the plan can be approved.

D. For all public water systems, the following have been determined by the state health officer to be significant

deficiencies and shall be corrected in accordance with §319.B of this Part:

1. §105.A 105.B or 105.C of this Part;
2. §309.A of this Part;
3. There shall be no pathway for contamination into the well casing or discharge piping. The well site grading, the well slab and all well appurtenances including casing, sanitary seal, vent, and drawdown tube shall be maintained to prevent the introduction of contamination into the well casing and discharge piping;
4. Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination. The state health officer has deemed that due to the horizontal distance to a possible source of pollution that is currently causing, or may reasonably be expected to cause contamination to be introduced into the water being delivered to consumers, action is necessary to eliminate or mitigate this potential source of contamination;
5. §315.A of this Part;
6. §325.A of this Part;
7. §327.A.15 of this Part;
8. §329.A.6 of this Part;
9. §331.A of this Part;
10. §335.E of this Part;
11. §337.C of this Part;
12. §343.A of this Part;
13. §344.A of this Part;
14. General equipment design shall be such that feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate throughout the range of feed;
15. For fluoride only, day tanks shall be provided where bulk storage of liquid chemical is provided, meet all the requirements of section 5.1.10 of the Ten State Standards, hold no more than a 30 hour supply, and be scale mounted or have a calibrated gauge painted or mounted on the side if liquid levels can be observed in a gauge tube or through translucent sidewalls of the tank. In opaque tanks, a gauge rod extending above a reference point at the top of the tank, attached to a float can be used. The ratio of the area of the tank to its height shall be such that unit readings are meaningful in relation to the total amount of chemical fed during a day;
16. No drain on a water storage structure shall have a direct connection to a sewer or storm drain. The design shall allow draining the storage facility for cleaning or maintenance without causing loss of pressure in the distribution system;
17. System shall have a monitoring plan that includes a list of all routine compliance samples required on a daily, weekly, monthly, quarterly, and annual basis and identify the sampling location where samples are to be collected. The public water system shall revise and re-submit its monitoring plan if changes to a plant or distribution system require changes to the sampling locations or if any significant changes to the disinfection methods are made. In addition, the public water system shall update and re-submit its monitoring plan when the system's sampling requirements or protocols change;
18. §1503.A.1 of this Part;
19. §1503.C of this Part;

20. Storage tanks and pipelines for liquid chemicals shall be specified for use with individual chemicals and shall not be used for different chemicals. Offloading areas shall be clearly labeled to prevent accidental cross-contamination;

21. Critical water system component is in poor condition or defective and indicative of failure or imminent failure. Component failure is expected to critically impact the quality or quantity of produced water;

22. All potable water systems shall be designed, constructed, and maintained so as to prevent leakage of water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service; and

23. Other condition which is deemed by the state health officer to be a significant deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

§325. Treatment Chemicals and Components

[formerly paragraph 12:007]

A. Chemicals used in the treatment of water to be used for potable purposes shall either meet the standards of the American Water Works Association or meet NSF 60 requirements as verified by an ANSI accredited testing agency. System wetted components shall meet NSF 61 as verified by an ANSI accredited testing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5.A. (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§343. Cross Connections

[formerly paragraph 12:016-1]

A. There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water, hazardous fluid or contamination may enter a public water supply system.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(7)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1325 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 9. Louisiana Total Coliform Rule **[formerly Appendix C]**

§901. Federal Regulations Adopted by Reference **[formerly the preamble paragraph opening Appendix C]**

A. The State of Louisiana, Louisiana Department of Health (LDH)-Office of Public Health (OPH) adopts the United States Environmental Protection Agency (USEPA) federal Total Coliform Regulations as published in the *Federal Register*, Volume 54, Number 124 Thursday, June 29, 1989. Pursuant to the definition of *national primary drinking water regulations* and the provisions of §377 of this Part, LDH-OPH adopts by reference the USEPA federal

Revisions to the Total Coliform Rule (RTCR) as published in the *Federal Register* dated February 13, 2013 (Volume 78, Number 30, pages 10346-10363). In addition, under §377 of this Part, LDH-OPH also adopts by reference certain USEPA minor corrections to the federal RTCR as published in the *Federal Register* dated February 26, 2014 (Volume 79, Number 38, pages 10668-10670). In order to clarify the state's discretionary decisions allowed by the federal requirements, the following is offered.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

**§903. Coliform Routine Compliance Monitoring
[formerly Coliform Routine Compliance
Monitoring of Appendix C]**

A. Public water systems shall collect routine compliance samples for total coliforms at sites which are representative

of water throughout the distribution system in accordance with a monitoring plan approved by the state health officer. Each public water system shall submit a monitoring plan in a format approved by the state health officer. The monitoring plan shall include a minimum number of point of collection (POC) monitoring sites calculated by multiplying 1.5 times the minimum number of samples required to be routinely collected in accordance with Subsection C of this Section, rounding any mixed (fractional) number product up to the next whole number. The monitoring plan shall include the POC monitoring sites for repeat samples required in §905. The monitoring plan shall include a map of the system with each POC sampling site identified along with a 911 street address, a latitude/longitude coordinate, and a brief description of the site location.

B. ...

C. Community systems and non-community systems shall be routinely monitored in accordance with Table 1.

Table 1			
Population Served	Minimum Number of Routine Samples per Month	Population Served	Minimum Number of Routine Samples per Month
25 to 1,000	1	59,001 to 70,000	70
1,001 to 2,500	2	70,001 to 83,000	80
2,501 to 3,300	3	83,001 to 96,000	90
3,301 to 4,100	4	96,001 to 130,000	100
4,101 to 4,900	5	130,001 to 220,000	120
4,901 to 5,800	6	220,001 to 320,000	150
5,801 to 6,700	7	320,001 to 450,000	180
6,701 to 7,600	8	450,001 to 600,000	210
7,601 to 8,500	9	600,001 to 780,000	240
8,501 to 12,900	10	780,001 to 970,000	270
12,901 to 17,200	15	970,001 to 1,230,000	300
17,201 to 21,500	20	1,230,001 to 1,520,000	330
21,501 to 25,000	25	1,520,001 to 1,850,000	360
25,001 to 33,000	30	1,850,001 to 2,270,000	390
33,001 to 41,000	40	2,270,001 to 3,020,000	420
41,001 to 50,000	50	3,020,001 to 3,960,000	450
50,001 to 59,000	60	3,960,001 or more	480

D. Unless the state health officer specifies otherwise, the public water supply shall collect routine samples at regular time intervals throughout the month and shall alternate routine sampling between all of the approved POC sites. Routine samples shall not be collected from the same POC more than once per calendar month.

E. Special purpose samples (investigative samples) shall not be used to determine compliance with the *Escherichia coli* (*E. coli*) MCL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended LR 42:410 (March 2016), amended by the Department of Health, Office of Public Health, LR 43:

**§905. Coliform Repeat Compliance Monitoring
[formerly Coliform Repeat Monitoring of
Appendix C]**

A. If a routine sample is total coliform positive and the public water supply has their own certified laboratory, repeat samples shall be collected by the public water supply within 24 hours of being notified of the positive result. If the State collects and analyzes the samples, repeat samples shall be

collected by the state within 24 hours of official notification. At least three repeat compliance samples shall be collected for each routine total coliform positive sample found.

B. For each routine total coliform positive sample, at least one repeat sample shall be collected from the sampling tap where the original total coliform positive sample was taken and at least one repeat sample shall be collected at a tap within five service connections upstream and at least one repeat sample shall be collected at a tap within five service connections downstream of the original sampling site.

C. The repeat samples shall be collected on the same day.

D. In a system with a single service connection, three 100 ml repeat samples shall be collected.

E. If total coliforms are detected in any repeat sample, the system shall collect another set of repeat samples from the same locations within 24 hours of being notified of the positive result. The system shall continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the system determines that a coliform treatment technique trigger under this Part has been exceeded as a result of a

repeat sample being total coliform-positive and the State is notified.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1334 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§907. Analytical and Reporting Requirements

A. Compliance samples for total coliform and *Escherichia coli* (*E. coli*) shall be analyzed by a certified microbiology laboratory/drinking water. The microbiology laboratory shall be certified by the state health officer for each method (and associated contaminant(s)) used for compliance monitoring analyses under this Part.

B. Compliance samples shall be analyzed to determine the presence or absence of total coliforms and *E. coli*; a determination of density is not required. If a routine or repeat sample result is positive for total coliform, the sample shall also be analyzed for *E. coli* immediately.

C. For compliance samples, laboratories shall use a State-approved laboratory report that contains the following information:

1. public water system (PWS) name and State-assigned PWS ID number;
2. sample identification number;
3. State-assigned point of collection (POC) site ID No. and POC address;
4. sample type (e.g., routine, repeat, source, replacement, investigative or other special purpose sample);
5. date and time of collection;
6. disinfectant residual (specify free or total and units of measurement);
7. name of sampler/collector;
8. date and time of sample receipt by the laboratory;
9. any deficiency in the condition of the sample;
10. date and time analysis begins;
11. analytical technique/method used;
12. results of analysis;
13. any remarks [quality control failures, etc.]; and
14. name and signature of the analyst performing the analysis.



D. Except for a positive sample(s) which is required under to be reported sooner, compliance sample results shall be reported in a format approved by the state health officer by the tenth day of the following month after the end of the monitoring period.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§911. Treatment Technique Triggers and Maximum Contaminant Level

[formerly Total Coliform MCL of Appendix C]

A. The following conditions are considered treatment technique triggers.

1. For systems collecting 40 or more distribution system samples per month, more than 5.0 percent of the monthly samples are total coliform positive.

2. For systems collecting less than 40 distribution system samples per month, two or more samples per month are total coliform positive.

3. Failure to collect every required repeat sample following a total coliform positive sample.

4. An *E.coli* maximum contaminant level (MCL) violation occurs as specified below:

- a. a coliform-positive original sample that is also positive for *E. coli* is followed by a coliform-positive repeat sample;

- b. a coliform-positive original sample followed by a coliform-positive repeat sample is also positive for *E. coli*;

- c. failure to take all repeat samples following an *E. coli* positive routine sample; or

- d. failure to test for *E. coli* on any repeat total coliform positive sample.

5. A second occurrence of conditions under Paragraph 1, 2 or 3 of this Subsection within a rolling 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§912. Assessment Requirements

A. Assessments shall be conducted in accordance with the requirements of the National Primary Drinking Water Regulations as amended by this Chapter after exceeding any of the treatment technique triggers described in §911 of this Part.

1. A Level 1 assessment shall be conducted if the system exceeds one of the treatment technique triggers described in Paragraph 1, 2, or 3 of §912.A.

- a. A Level 1 assessment shall be conducted by an operator or operators holding a current license issued by the state health officer for water production, water treatment and water distribution in the class level (or higher) required for the population served by the system in accordance with the requirements of LAC 48:V.Chapter 73.

2. A Level 2 assessment shall be conducted if the system exceeds one of the treatment technique triggers described in Paragraph 4 or 5 of §912.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

§913. Public Notification

[formerly Public Notification of Appendix C]

A. Public notification (PN) shall be provided in accord with the requirements of the National Primary Drinking Water Regulations, as amended under Chapter 19 of this Part. In accordance with the NPDWRs, public water systems shall provide a Tier 1 PN for an *E. coli* MCL violation, a Tier 2 PN for a treatment technique requirement violation for failure to conduct assessments or corrective actions, and a Tier 3 PN for a monitoring violation or a reporting violation.

1. If a replacement sample cannot be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended LR 35:484 (March 2009), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 12. Ground Water Rule

§1201. General

A. Pursuant to the definition of *National Primary Drinking Water Regulations* and the provisions of §377 of this Part, the Louisiana Department of Health (LDH) Office of Public Health (OPH) adopts by reference the United States Environmental Protection Agency (USEPA) federal Ground Water Rule (GWR) as published in the *Federal Register* dated November 8, 2006 (Volume 71, Number 216, pages 65650 - 65659). In addition, under §377 of this Part, LDH-OPH also adopted by reference certain USEPA technical corrections to the federal GWR. The applicable technical corrections were published in the *Federal Register* dated November 21, 2006 (Volume 71, Number 224, page 67427).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

Family Impact Statement

1. The Effect on the Stability of the Family. None
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. None
3. The Effect on the Functioning of the Family. None
4. The Effect on the Family Earnings and Family Budget. The proposed Rule adopts two federal safe drinking water rules, the Ground Water Rule (GWR) and the Revised Total Coliform Rule (RTCR). The proposed Rule may increase the monthly water bill for households. The proposed rule cost to households varies depending on the results from monitoring and onsite assessments/surveys conducted on the public water systems (PWS) serving the household. PWSs that have to take corrective action due to potential coliform contamination in the source water or distribution system will have the greatest effect on household water bills.

For the RTCR, the United States Environmental Protection Agency (USEPA) estimated that households on average will incur less than a dollar increase (~\$0.08 per month), but those households served by a water system that has to take corrective actions will incur a slightly larger increase on their water bills. USEPA estimated that only 9 percent of the households that are connected to a PWS may incur at most a monthly cost increase of \$0.38.

For the GWR, USEPA has estimated that, as a whole, households face a minimal increase on their monthly water bill. USEPA has estimated that 24 percent of the households that are connected to a PWS that uses ground-water as its source of supply may incur a monthly cost increase of \$0.13. The state's adoption of this federal rule may not result in any additional costs to households because the PWSs have already been required to comply under the federal rule since December 2009.

5. The Effect on the Behavior and Personal Responsibility of Children. None

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. None for family. Local governmental units which own, manage, and/or operate a public water system may determine a need to increase their revenue collections (i.e., increase water bills) to cover the cost to perform the function as contained in this Rule.

Poverty Impact Statement

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule adopts two federal safe drinking water rules, the Ground Water Rule (GWR) and the Revised Total Coliform Rule (RTCR). The proposed rule may increase the monthly water bill for households. The proposed Rule cost to households varies depending on the results from monitoring and onsite assessments/surveys conducted on the public water systems (PWS) serving the household. PWSs that have to take corrective action due to potential coliform contamination in the source water or distribution system will have the greatest effect on household water bills.

For the RTCR, the United States Environmental Protection Agency (USEPA) estimated that households on average will incur less than a dollar increase (~\$0.08 per month), but those households served by a water system that has to take corrective actions will incur a slightly larger increase on their water bills. USEPA estimated that only 9 percent of the households that are connected to a PWS may incur at most a monthly cost increase of \$0.38.

For the GWR, USEPA has estimated that, as a whole, households face a minimal increase on their monthly water bill. USEPA has estimated that 24 percent of the households that are connected to a PWS that uses ground-water as its source of supply may incur a monthly cost increase of \$0.13. The state's adoption of this federal rule may not result in any additional costs to households because the PWSs have already been required to comply under the federal rule since December 2009.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. There will be no effect on childhood development and preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed rule will likely cause an increase in competition to hire and retain qualified and certified water plant operators. The rule will require water plant operators to become more knowledgeable of plant and distribution system processes and controls. The competition to hire and retain a competent operator will be higher based on his/her qualifications. This will cause an increase in employment of more knowledgeable and qualified individuals to properly operate, maintain, monitor, conduct assessments and take appropriate corrective actions to remain in compliance with said rule.

4. The Effect on Taxes and Tax Credits. There will be no effect on taxes and tax credits

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities

Assistance. There will be no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small businesses as required in the Regulatory Flexibility Act has been considered. The proposed action includes adopting by reference two federal safe drinking water rules, the Ground Water Rule (GWR) and the Revised Total Coliform Rule (RTCR). Both rules are federally mandatory which means public water systems are required to comply regardless of state adoption. For the GWR adoption, the proposed rule requirements will not be any more restrictive than the federal rule. However, for the RTCR adoption, the rule requirements is more restrictive regarding monitoring than the federal rule to provide better public health protection. The proposed Rule requires an increased sample collection frequency for approximately 25 percent of the small public water systems. This impact will be eliminated as of January 1, 2017 when the agency begins collecting bacteriological samples for the public water systems.

The United States Environmental Protection Agency (USEPA) performed an Economic Analyses and assessed the impacts of each rule (GWR and RTCR) on small entities. For purposes of assessing the impacts of the rule on small entities, USEPA considered small entities to be public water systems (PWSs) serving 10,000 or fewer people. USEPA conducted a screening analysis to determine if the rule would have a significant economic impact on a substantial number of small entities. In this analysis, USEPA evaluated the potential economic impact of the rule on small entities by comparing annualized compliance costs as a percentage of annual revenues for different small-entity classifications.

After considering the economic impacts of the RTCR on small entities, USEPA certified that the RTCR will not have a significant economic impact on a substantial number of small entities. Thus, based upon USEPA's certification, the Office of Public Health's Engineering Services Section does not expect that the proposed adoption of state-equivalent Rule to this federal rule will have a significant economic impact on a substantial number of small businesses.

After considering the economic impacts of the GWR on small entities, USEPA determined that the GWR will have a significant economic impact on a substantial number of small entities. Based on USEPA's Economic Analysis for the GWR, small public water systems may incur additional costs in total of approximately \$423,883 annually which includes implementing the Rule, source water monitoring, and performing corrective actions. These include small community water systems (CWSs), non-transient non-community (NTNCWSs), and transient non-community water systems (TNCWSs), entities such as municipal water systems (publicly and privately owned), and privately-owned PWSs and for-profit businesses where provision of water may be ancillary, such as mobile home parks, day care centers, churches, schools and homeowner associations. Not every PWS will incur all of the costs because compliance activities for systems depend on results from monitoring and sanitary surveys. The state's adoption of this federal rule may not result in any additional costs to Louisiana public

water systems at this time because the systems have been required to comply under the federal rule since December 2009.

USEPA conducted a regulatory flexibility analysis (RFA) for the GWR due to the significant impact to small water systems. Based on the initial RFA, USEPA took steps to reduce the burden on small PWSs. Per USEPA, the final GWR has greater flexibility and is less burdensome for small PWSs than the originally proposed rule. The final GWR uses a risk-based regulatory strategy, whereby the monitoring requirements are based on the system characteristics and not directly by related to the PWS size.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, there should be no known or foreseeable effect on the:

1. effect on the staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Wednesday, November 30, 2016 at COB, 4:30 p.m., and should be addressed to Amanda Laughlin, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. 4th Street - Room 125, Baton Rouge, LA 70802.

Public Hearing

LDH-OPH will conduct a public hearing at 9 am on Tuesday, November 28, 2016, in Room 118 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. Sixth and N. Fifth / North and Main Streets. (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jimmy Guidry, MD
State Health Officer,
and
Rebekah E. Gee, MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Ground Water and Revised Total Coliform Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51) by adopting two

federal safe drinking water rules—(1) Ground Water Rule (GWR); and (2) Revised Total Coliform Rule (RTCR). The amendments to Part XII are necessary in order for the OPH to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, *et seq.*) primary implementing regulations (40 CFR Part 141). Not every public water system (PWS) will incur all of the following costs because compliance activities for systems depend on results from monitoring and the assessments/sanitary surveys. Implementation costs of this proposed rule are as follows:

Revised Total Coliform Rule (RTCR)—State governmental units, such as LDH medical care facilities (2) and other state-owned facilities, that own or operate 32 public water systems, are anticipated to incur an additional cost of \$6,352 in FY17, \$6,543 in FY18 and \$6,739 in FY19. This rule may impact local governmental units that own or operate 568 public water systems. The approximate cost for all 568 PWSs is \$112,748 annually. These costs include implementing, monitoring, conducting assessments, and performing corrective actions.

Ground Water Rule (GWR) - State governmental units, such as LDH medical care facilities (2) and other state agencies and facilities, that own or operate 32 public water systems, are anticipated to incur an additional cost of \$18,663 in FY17, \$19,223 in FY18 and \$19,799 in FY19. This rule may impact local governmental units that own or operate 493 public water systems. The approximate cost for all 493 systems is \$287,525 annually. These costs include implementing, source water monitoring, and performing corrective actions. Also, the proposed rule changes will result in an estimated cost to LDH-OPH of \$2,276 to publish the notice of intent and the final rule in the *Louisiana Register*. This is a one-time cost that will be absorbed by the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State or local governmental units which own, manage, and/or operate a public water system may increase their revenue collections (*i.e.*, increase water bills) to cover the cost of complying with this rule. Such systems are already required (and will continue to be required) to comply under the existing federal rules (GWR and RTCR).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The following rules will impact economic costs to persons or non-governmental groups as follows:

Revised Total Coliform Rule (RTCR)—Non-governmental groups that own or operate 733 public water systems may collectively incur additional costs totaling approximately \$145,500 annually which includes implementing the rule, monitoring, conducting assessments, and performing corrective actions

USEPA estimated that households on average will incur less than a dollar increase, but those households served by a water system that has to take corrective actions will incur a slightly larger increase on their water bills. USEPA has estimated that only 9 percent of the households that are connected to a PWS will incur at most a monthly cost increase of \$0.38.

Ground Water Rule (GWR)—Non-governmental groups that own or operate 707 public water systems may collectively incur additional costs totaling approximately \$412,333 annually which includes implementing the rule, source water monitoring, and performing corrective actions.

USEPA has estimated that, as a whole, households face a minimal increase on their monthly water bill. USEPA has

estimated that 24 percent of the households that are connected to a PWS that uses ground-water as its source of supply will incur a monthly cost increase of \$0.13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will likely cause an increase in competition to hire and retain qualified and certified water plant operators. The rule will require water plant operators to become more knowledgeable of plant and distribution system processes and controls. The competition to hire and retain a competent operator will be higher based on his/her qualifications. This will cause an increase in employment of more knowledgeable and qualified individuals to properly operate, maintain, monitor, conduct assessments and take appropriate corrective actions to remain in compliance with said rule.

Beth Scalco
Assistant Secretary
1610#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

~~NOTICE OF INTENT~~

~~Department of Revenue Policy Services Division~~

~~Corporate Deductions; Add Back of Certain Intangible Expenses; Interest and Management Fees (LAC 61:I.1115)~~

~~Under the authority of R.S. 47:1511 and in accordance with the provisions of R.S. 47:287.82 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division proposes to adopt LAC 61:I.1115.~~

~~The primary purpose of this proposed regulation is to implement Act 16 of the 2016 First Extraordinary Session of the Louisiana Legislature.~~

~~Title 61~~

~~REVENUE AND TAXATION~~

~~Part I. Taxes Collected and Administered by the Secretary of Revenue~~

~~Chapter 11. Corporation Income Tax~~

~~§1115. Corporate deductions; add back of certain intangible expenses; interest and management fees~~

~~A. General. R.S. 47:287.82 provides that otherwise deductible interest expenses and costs, intangible expenses and costs, and management fees directly or indirectly paid to a related member shall be added back to the corporation's gross income.~~

~~B. Exceptions. The corporation shall make the add back unless:~~

~~1. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the item of income corresponding to the corporation's expense, cost, or fee, was in the same taxable year subject to a tax based on or measured by the related member's net income in Louisiana or any other state; or~~

~~2. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the item of income corresponding to the corporation's expense, cost, or fee, was in the same taxable year subject to a tax based on or~~